

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.19873 of 2016

28.09.2016

Between:

Bank of India,
Secunderabad

..Petitioner

And

The Debts Recovery Tribunal, Hyderabad and others

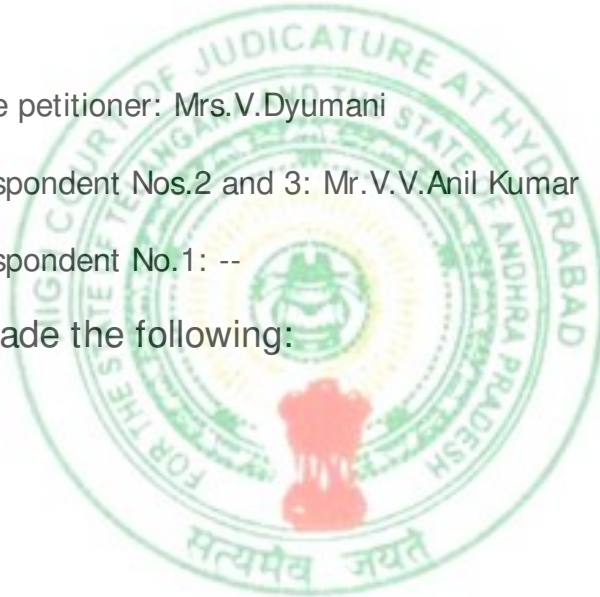
..Respondents

Counsel for the petitioner: Mrs.V.Dyumani

Counsel for respondent Nos.2 and 3: Mr.V.V.Anil Kumar

Counsel for respondent No.1: --

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

In pursuance of the decree granted by respondent No.1 Tribunal in favour of the petitioner for recovery of dues from respondent Nos. 2 and 3, the recovery officer of respondent No.1 Tribunal has initiated recovery proceedings. Respondent Nos.2 and 3 have filed an application before the recovery officer, wherein they stated that demand notices in forms 16 and 17 have not been received by them and that therefore, the properties shall not be put to auction. These objections were dismissed by the recovery officer on 28.03.2016. Feeling aggrieved by the same, respondent Nos.2 and 3 filed an appeal, *vide* R.A.No.2 of 2016. In M.P.No.13 of 2016 filed by them, respondent No.1 Tribunal passed a conditional interim order, dated 26.05.2016, wherein while directing the recovery officer to go ahead with the sale as proposed, he was, however, directed not to confirm the same, provided respondent Nos.2 and 3 deposit Rs.40 lakhs within four weeks. Feeling aggrieved by this order, the petitioner – decree holder has filed this writ petition.

2. Respondent Nos.2 and 3 pleaded in their counter-affidavit that in pursuance of the conditional order of respondent No.1 Tribunal, they have paid money to respondent No.1 Tribunal, but the recovery officer has confirmed the auction on the ground that they failed to comply with the impugned order within the time stipulated by respondent No.1 Tribunal. They have further pleaded that they have filed W.P.No.25526 of 2016 challenging the action of the recovery officer in confirming the sale in favour of the auction purchasers and that this Court, by order, dated 01.08.2016, disposed of the said writ petition restraining the petitioner and the recovery officer from proceeding further in pursuance of the confirmation of sale for a period of one month, while permitting

respondent Nos.2 and 3 to approach respondent No.1 Tribunal and seek appropriate relief therefrom. A further direction was issued that till the expiry of the aforementioned period, the sale certificate shall not be registered by the Sub-Registrar, Chirala, Prakasam District.

3. Mr.V.V.Anil Kumar, learned counsel for respondent Nos.2 and 3, has submitted that in pursuance of the liberty given by this Court in W.P.No.25526 of 2016, his clients have approached respondent No.1 Tribunal for condonation of delay in depositing the sum of Rs.40 lakhs and that the delay was, accordingly, condoned.

4. Mrs.V.Dyumani, learned counsel for the petitioner, has submitted that since R.A.No.2 of 2016 is pending before respondent No.1 Tribunal, it may be directed to dispose of the same, after hearing both sides within a reasonable time.

5. Having regard to the events that have transpired after the impugned order was passed as noted above, the necessity for this Court to examine the correctness or otherwise of the impugned order is obviated. As on today, the auction was confirmed, but in view of the order, dated 01.08.2016, in W.P.No.25526 of 2016, passed by this Court and the order of respondent No.1 Tribunal condoning the delay in deposit of Rs.40 lakhs by respondent Nos.2 and 3, no further steps are taken in pursuance of the confirmation of sale.

6. Under the above circumstances, the Writ Petition is disposed of with the direction to respondent No.1 Tribunal to dispose of R.A.No.2 of 2016 as expeditiously as possible and preferably, within a period of six weeks from the date of receipt of a copy of this order.

7. As a sequel to disposal of the writ petition, W.P.M.P.No.24406 of 2016 filed by the petitioner for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

28th September, 2016
GHN

